

DOMINION OF CANADA)

) IN THE MATTER OF THE FILING AND
) RECORDATION WITH THE INTERSTATE

PROVINCE OF ONTARIO)

) COMMERCE COMMISSION OF THE UNITED
) STATES OF AMERICA OF A CONDITIONAL

TO WIT:

) SALE AGREEMENT DATED AS OF FEBURARY
) 28, 1972 BETWEEN CANADA PERMANENT
) TRUST COMPANY AND CANADIAN ACCEPTANCE
) CORPORATION LIMITED.

RECORDATION NO. 6517

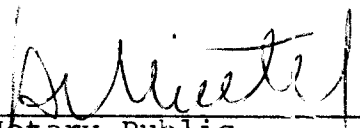
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INTERSTATE COMMERCE COMMISSION

I, ALLIN R. MITCHELL, a Notary Public in and for the Province of Ontario, by Royal Authority, duly appointed, residing in the City of Toronto in the said Province of Ontario, do hereby certify that I have examined the paper writing annexed hereto purporting to be a copy of a Conditional Sale Agreement dated as of February 28, 1972 between Canada Permanent Trust Company and Canadian Acceptance Corporation Limited and I hereby certify further that I have compared the said attached copy with the original document and that the said attached copy is a true and correct copy of the said original document in all respects, the within certification being hereby granted under my notarial form and seal of office, to serve and avail as occasion shall or may require.

DATED at Toronto this 20th day of April, 1972.



Notary Public

CONDITIONAL SALE AGREEMENT

Dated as of February 28, 1972

between

CANADA PERMANENT TRUST COMPANY

and

**CANADIAN ACCEPTANCE CORPORATION
LIMITED**

CONDITIONAL SALE AGREEMENT

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CONDITIONAL SALE AGREEMENT dated as of February 28, 1972 between Canada Permanent Trust Company (hereinafter called the "Vendor") and Canadian Acceptance Corporation Limited (hereinafter called the "Company").

WHEREAS the Vendor, the Company and Canadian National Railway Company (hereinafter called the "Lessee") have entered into Agreements for the manufacture and purchase of the units of railroad equipment described in Schedule 1 hereto (hereinafter called the "Units" or "Units of Equipment") which Units are in part to be manufactured by Hawker Siddeley Canada Ltd. under a Manufacturing Agreement dated as of February 28, 1972 and entered into among it, the Vendor, the Company and the Lessee, a copy of which Manufacturing Agreement is attached as Schedule 2 hereto, and in part by National Steel Car Corporation, Limited under a Manufacturing Agreement dated as of February 28, 1972 and entered into among it, the Vendor, the Company and the Lessee, a copy of which Agreement is attached as Schedule 3 hereto, (Hawker Siddeley Canada Ltd. and National Steel Car Corporation, Limited being hereinafter called collectively the "Manufacturers" and individually a "Manufacturer" and the said Manufacturing Agreements being hereinafter called collectively the "Manufacturing Agreements"); and

WHEREAS the Vendor will acquire title to the Units of Equipment from the Manufacturers thereof and will under an Equipment Loan Trust Declaration dated as of February 28, 1972 (hereinafter called the "Trust Declaration") issue Loan Certificates (as therein defined); and

WHEREAS the Vendor has agreed to sell the Units of Equipment to the Company under and pursuant to the terms of this Agreement; and

WHEREAS the Company proposes to enter into a Lease of Equipment to be dated as of February 28, 1972 (hereinafter called the "Lease") with the Lessee substantially in the form of Schedule 5 to the Trust Declaration pursuant to which the Company will lease the Units of Equipment to the Lessee; and

WHEREAS by way of collateral security for the payment of the unpaid balance of the sale price of the Units of Equipment payable by the Company to the Vendor hereunder and the interest thereon, the Company proposes to enter into a Collateral Assignment of Lease and Agreement dated as of February 28, 1972 (hereinafter called the "Assignment") with the Vendor pursuant to which the rentals and other payments payable by the Lessee to the Company under the Lease will be assigned to the Vendor for security purposes, such Assignment to be substantially in the form of Schedule 7 to the Trust Declaration.

NOW, THEREFORE, in consideration of the mutual promises, covenants and agreements hereinafter set forth, the parties hereto do hereby agree as follows:

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ARTICLE 1. *Sale of Units of Equipment.* Pursuant to the Manufacturing Agreements the Vendor will purchase the Units of Equipment from the Manufacturers and pursuant to this Agreement the Vendor will sell the Units of Equipment to the Company and the Company will purchase the same from the Vendor.

ARTICLE 2. *Delivery.* The Vendor will cause each Unit of Equipment to be delivered to the Company at the point or points in Canada and on the date or dates specified in Schedule II to the Manufacturing Agreements. Delivery of the Units of Equipment by the Manufacturers to the Lessee under the Manufacturing Agreements shall for all purposes be deemed to be delivery by the Vendor to the Company under the terms of this Agreement.

Notwithstanding the preceding provisions of this Article 2, any Units of Equipment not delivered, accepted and settled for pursuant to the Manufacturing Agreements shall be excluded from this Agreement and not included in the term "Units of Equipment" as used in this Agreement. In the event of any such exclusion, the Vendor and the Company shall execute an agreement or agreements supplemental hereto limiting this Agreement to the Units of Equipment theretofore delivered, accepted and settled for hereunder.

On delivery of each of the Units of Equipment under the Manufacturing Agreements and acceptance thereof as therein provided, the Company assumes with respect thereto the responsibility and risk of loss or damage.

ARTICLE 3. *Unit Cost and Payment.*

The Units of equipment shall be settled for on the Closing Dates (as defined in the fourth paragraph of Article 3 of the Manufacturing Agreements) and in Groups, (as defined in the second paragraph of Article 3 of the Manufacturing Agreements).

The sale price of the Units of Equipment (the "Conditional Sale Indebtedness") shall be an amount which is equal to the aggregate of:

(a) an amount equal to 25% of the aggregate Unit Costs of the Units as defined in Article 3 of the Manufacturing Agreements, which amount shall be paid by way of initial payments and on the Closing Dates provided for in Article 3 of the Manufacturing Agreements; and

(b) an amount equal to the aggregate principal amount of Long Term Loan Certificates and the Replacement Loan Certificate (both as defined in the Trust Declaration) issued pursuant to Sections 4.04 and 3.04, respectively, of the Trust Declaration.

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Subject to the conditions specified in the last paragraph of this Article 3, the Company hereby acknowledges itself to be indebted to the Vendor in the amount of, and hereby promises to pay to the Vendor at such place as the Vendor may designate, the Conditional Sale Indebtedness, as follows:

(a) On the Closing Date with respect to each Group, by cash or certified cheque payable to or to the order of the Vendor, an amount arrived at by aggregating 25% of the Unit Cost of each Unit of Equipment in such Group;

(b) The balance of the Conditional Sale Indebtedness by way of 31 consecutive semi-annual instalments, payable on February 28 and August 28 in each year from August 28, 1972, to and including August 28, 1987, (each such date being hereinafter referred to as a "Payment Date") in an amount in each case equal to the amount of the principal and interest payment due with respect to the Long Term Loan Certificates and the Replacement Loan Certificate on the interest payment date (as set out in the Trust Declaration) next following each such Payment Date. In the event that any Payment Date hereinbefore provided for is not a business day, the instalment then due shall be made on the next succeeding business day).

The Company will pay interest at the rate of 8.10% per annum upon all amounts remaining unpaid after the same shall have become due and payable pursuant to the terms hereof, anything herein to the contrary notwithstanding.

All payments provided for in this Agreement shall be made in lawful money of Canada. Except as provided in Article 5 hereof, the Company shall not have the privilege of prepaying the Conditional Sale Indebtedness prior to the dates it becomes due.

The parties hereto contemplate that the Company will furnish that portion of the Unit Cost of each Group as is required under subparagraph (a) of the third paragraph of this Article 3 and that an amount equal to the balance of such Unit Cost shall be paid to the Manufacturers by the Vendor which shall raise the required funds by the issue of Equipment Loan Certificates under the Trust Declaration.

It is agreed that the obligation of the Company to pay to the Vendor any amount required to be paid pursuant to sub-paragraph (a) of the third paragraph of this Article 3 with respect to any Group is specifically subject to the prior or contemporaneous fulfillment of the following conditions:

(a) no Event of Default under the Lease, nor any event which with the lapse of time and/or notice provided for herein or in the Lease would constitute such an Event of Default shall have occurred and be continuing;

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(b) the Vendor shall pay or cause to be paid to the Manufacturers the amounts contemplated to be paid by it as provided in the preceding paragraph of this Article 3; and

(c) the Company shall receive signed counterparts of all documents required by the terms of the Manufacturing Agreements to be delivered to the Vendor in respect of payment for such Group, the opinions of counsel required by § 14 of the Lease, and such other documents as the Company may reasonably request.

Notwithstanding any other provisions of this Agreement it is understood and agreed by the Vendor that liability of the Company for all payments to be made by it under and pursuant to this Agreement, with the exception only of the payments to be made pursuant to sub-paragraph (a) of the third paragraph of Article 3 hereof and Article 17 hereof, shall not exceed an amount equal to the income and proceeds from the Units of Equipment (as hereinafter defined), and such payments shall be made by the Company only to the extent that the Company shall have actually received sufficient income or proceeds from the Units of Equipment to make such payments. Except as provided in the next preceding sentence, the Vendor agrees that the Company shall have no personal liability to make any payments under this Agreement whatsoever except from the income and proceeds from the Units of Equipment to the extent actually received by the Company as above provided. In addition, the Vendor agrees and understands that the Company (i) makes no representation or warranty, and is not responsible for, the due execution, validity, sufficiency or enforceability of the Lease in so far as it relates to the Lessee (or any document relative thereto) or of any of the obligations thereunder of the Lessee and (ii) shall have no obligation, duty or other liability whatsoever to see to or be responsible for the performance or observance by the Lessee of any of its agreements, representations, indemnities, obligations or other undertakings under the Lease; it being understood that as to all such matters the Vendor will look solely to the Vendor's rights under this Agreement against the Units of Equipment and to the Vendor's rights under the Assignment against the Lessee and the Units of Equipment. As used herein the term "income and proceeds from the Units of Equipment" shall mean, if one of the events of default specified in Article 12 hereof shall have occurred and while it shall be continuing, so much of the following amounts as are indefeasibly received by the Company at any time after such event and during the continuance thereof: (a) all amounts of rental (or damages under clause (i) of subparagraph (b) of § 9 of the Lease) and amounts in respect of Casualty Occurrences paid for or with respect to the Units of Equipment pursuant to the Lease and payments equivalent to such amounts and (b) any and all payments or proceeds received by the Company for or with respect to the Units of Equipment as the result of the sale, lease or other disposition thereof and after deducting all costs and expenses of such sale, lease or other disposition, and shall mean at any other time only that

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portion of the amounts referred to in the foregoing clauses (a) and (b) as are indefeasibly received by the Company and as shall equal the portion of the Conditional Sale Indebtedness (including payments in respect of Casualty Occurrences) and/or interest thereon then due and payable or due and payable on the February 28 or August 28 next succeeding the date such amounts received by the Company were required to be paid to it pursuant to the Lease or as shall equal any other payments then due and payable under this Agreement. Nothing contained herein shall constitute an assignment of, or lien, charge or encumbrance against, the "Income and proceeds from the Units of Equipment" or any right, title or interest of the Company under or arising out of the Lease, or of or against any payments received or to be received by the Company under or in connection with the Lease. It is further specifically understood and agreed that nothing contained herein limiting the liability of the Company shall derogate from the right of the Vendor subject to the rights of the Lessee referred to in Article 8 hereof to proceed against the Units of Equipment or the Lessee as provided for herein or in the Assignment or otherwise for the full unpaid Conditional Sale Indebtedness and interest thereon or any other payment due and payable hereunder. The Vendor agrees, however, that in the event it shall obtain a judgment against the Company for an amount in excess of the amounts payable by the Company pursuant to the limitations set forth in this paragraph, it will, accordingly, limit its execution of such judgment to such amount.

ARTICLE 4. *Title to the Units of Equipment, Identification Marks.* The Vendor shall and hereby does retain title to and property in the Units of Equipment until the Company shall have made all the payments hereunder and shall have kept and performed all its agreements herein contained, notwithstanding the delivery of the Units of Equipment to and the possession and use thereof by the Company or the Lessee as herein provided. Any and all additions to the Units of Equipment and any and all replacements of the Units of Equipment and of parts thereof shall constitute accessions to the Units of Equipment (except such as can be removed without damage to and without impairing the originally intended function or use of the Units of Equipment, including, without limitation, racks or partitions, which have been added to the Units of Equipment by the Lessee, the cost of which is not included in the Purchase Price of the Units of Equipment) and shall be subject to all the terms and conditions of this Agreement and included in the term "Units of Equipment" as used in this Agreement.

Except as otherwise specifically provided in Article 5 hereof, when and only when the Vendor shall have been paid the full amount of the Conditional Sale Indebtedness, together with interest and all other payments as herein provided, and all the Company's obligations herein contained shall have been performed, absolute right to the possession of and title to and property in the

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Units of Equipment shall pass to and vest in the Company without further transfer or action on the part of the Vendor, except that the Vendor, if requested by the Company, will execute appropriate instruments confirming such passage to the Company of title to and property in the Units of Equipment free of all liens, security interests and other encumbrances created or retained hereby and deliver such instruments to the Company and will execute in the same manner and deliver at the same place, for filing, recording or depositing in all necessary public offices, such instrument or instruments in writing as may be necessary or appropriate in order then to make clear upon the public records the title of the Company to the Units of Equipment, and will pay to the Company any money paid to the Vendor pursuant to Article 5 hereof and not theretofore applied as therein provided.

The Company will cause each Unit to be kept numbered with the identifying number set forth in Schedule 1 hereto and will keep and maintain, plainly, distinctly, permanently and conspicuously marked on each side of such Unit, in letters not less than three-eighths inch in height, the following words:

"OWNED BY CANADA PERMANENT TRUST COMPANY, 320 BAY STREET, TORONTO, CANADA, AS TRUSTEE AND VENDOR UNDER THE TERMS OF AN EQUIPMENT LOAN TRUST DECLARATION AND A CONDITIONAL SALE AGREEMENT"

or other appropriate words designated by the Vendor, with appropriate changes therein and additions thereto as from time to time may be required by law in order to protect the title of the Vendor to such Unit and the rights of the Vendor under the Conditional Sale Agreement. The Company will not place any such Unit in operation or exercise any control or dominion over the same until such names and word or words shall have been so marked on both sides thereof and will replace promptly any such names and word or words which may be removed, defaced or destroyed. The Company will not change or permit to be changed the identifying number of any Unit except in accordance with a statement of new identifying numbers to be substituted therefor, which statement previously shall have been filed with the Vendor by the Lessee and filed, recorded or deposited in all public offices where this Lease will have been filed, recorded or deposited.

Except as above provided, the Company will not allow the name of any person, association or corporation to be placed on the Units as a designation that might be interpreted as a claim of ownership; *provided, however*, that the Lessee may cause the Units to be lettered with the names or initials or other insignia customarily used by the Lessee or any permitted sublessee on railroad equipment used by them of the same or a similar type for convenience of identification of their rights to use the Units as permitted under this Lease.

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ARTICLE 5. *Casualty Occurrences.* In the event that any Unit of Equipment shall be or become worn out, lost, stolen, destroyed, irreparably damaged or damaged beyond economic repair, from any cause whatsoever or taken or requisitioned by condemnation, expropriation or otherwise (such occurrences being herein called "Casualty Occurrences"), the Company shall promptly after it shall have determined that such Unit has suffered a Casualty Occurrence (or as of such earlier date as the Company may receive notice thereof under the Lease), fully inform the Vendor in regard thereto. The Company shall (a) within its then current taxation year, either (i) replace such Unit with another unit of railway equipment of the same or similar type and with a value not less than the Fair Market Value (as defined in § 12 of the Lease) of such Unit immediately prior to its suffering the Casualty Occurrence, or (ii) with the prior written consent of the Vendor and of the holders of not less than 66⅔% in principal amount of the issued and outstanding Loan Certificates, replace such Unit with other railway equipment having a value not less than the Fair Market Value of such Unit immediately prior to its suffering the Casualty Occurrence which is acceptable to the Vendor and such holders, and thereupon such other unit or such other railway equipment shall be and become part of the Units hereunder and be subject to all the terms and provisions hereof, or (b) upon 15 days prior written notice to the Vendor, pay, on any Payment Date which is more than 15 days after such Casualty Occurrence and not later than the Payment Date next following the end of the Company's current taxation year, to the Vendor a sum equal to the Casualty Value (as hereinafter defined) of such Unit suffering a Casualty Occurrence as of the date of such payment and shall file with the Vendor a certificate setting forth the Casualty Value of such Unit. Any money paid to the Vendor pursuant to this paragraph shall be applied to the *pro rata* prepayment of each instalment of the Conditional Sale Indebtedness remaining unpaid (in proportion to the principal amount of Conditional Sale Indebtedness represented by each such instalment) and the Vendor will promptly furnish to the Company and the Lessee a revised schedule of payments of principal and interest thereafter to be made, calculated as provided in the fourth paragraph of Article 3 hereof.

Upon payment by the Company to the Vendor of the Casualty Value of any Unit of the Equipment having suffered a Casualty Occurrence, absolute right to the possession of, title to and property in such Unit shall pass to and vest in the Company, without further transfer or action on the part of the Vendor, except that the Vendor, if requested by the Company, will execute and deliver to the Company, at the expense of the Company, an appropriate instrument confirming such passage to the Company of title to and property in such Unit, in recordable form, in order that the Company may make clear upon the public records the title of the Company to such Unit.

The Casualty Value of each Unit of Equipment suffering a Casualty Occurrence shall be deemed to be the Casualty Value (as defined in the Lease).

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ARTICLE 6. *Maintenance and Repairs.* The Company agrees that, at its own cost and expense, it will maintain and keep each Unit of Equipment in good order and repair, reasonable wear and tear excepted.

ARTICLE 7. *Taxes.* All payments to be made by the Company hereunder will be free of expense to the Vendor for collection or other charges and will be free of expense to the Vendor with respect to the amount of any Canadian, United States or Mexican local, state, federal or provincial taxes (other than any Canadian local, provincial or federal income taxes and, to the extent that the Vendor receives credit for such taxes against any of its said Canadian income tax liability, any United States or Mexican local, state or federal income tax, payable by the Vendor in consequence of the receipt of payments provided herein and other than the aggregate of all local, provincial or city income taxes or franchise taxes measured by net income based on such receipts, except any such tax which is in substitution for or relieves the Vendor from the payment of taxes which it would otherwise be obligated to pay or reimburse as otherwise provided) assessments, duties or license fees and any charges, fines or penalties in connection therewith (all of which are hereinafter called impositions) hereafter levied or imposed upon or in connection with or measured by this Agreement or any sale, rental, use, payment, shipment, import, export, delivery or transfer of title under the terms hereof, all of which impositions the Company assumes and agrees to pay on demand in addition to the Conditional Sale Indebtedness. The Company will also pay promptly all impositions which may be imposed upon the Units of Equipment or for the use of operation thereof or upon the earnings arising therefrom or upon the Vendor solely by reason of its ownership thereof and will keep at all times all and every part of the Units of Equipment free and clear of all impositions which might in any way affect the title of the Vendor or result in a lien upon any of the Units of Equipment (this covenant will be deemed not to be breached by reason of liens referred to in the second paragraph of Article 9); *provided, however*, that the Company shall be under no obligation to pay any impositions so long as it is contesting in good faith and by appropriate legal proceedings such impositions and the nonpayment thereof does not, in the opinion of the Vendor, adversely affect the property or rights of the Vendor hereunder. If any such impositions shall have been charged or levied against the Vendor directly and paid by the Vendor, the Company shall reimburse the Vendor on presentation of invoices therefor; *provided, however*, that the Company shall not be obligated to reimburse the Vendor for any impositions so made unless (a) the Vendor shall have been, in the opinion of counsel for the Vendor, legally liable with respect thereto, or (b) the Company shall have approved of such payment.

ARTICLE 8. *Possession and Use.* The Company, so long as it shall not be in default under this Agreement, shall be entitled, from and after delivery of the Units of Equipment by the Manufacturers, to the possession of the Units of

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Equipment and the use thereof, but only upon and subject to all the terms and conditions of this Agreement.

The Company may lease the Units of Equipment to the Lessee or its assigns as permitted by, and for use as provided in, the Lease; *provided, however*, that, subject as hereinafter provided, the rights of the Lessee and its permitted assigns under the Lease shall be subordinated and junior in rank to the rights, and shall be subject to the remedies of, the Vendor under this Agreement. The Vendor will not terminate or impair the Lessee's possession or use of the Units of Equipment subject to the Lease in accordance with the terms of the Lease nor require performance by the Lessee of any obligation or payment hereunder so long as the Lessee is not in default under the Lease. The Company hereby agrees that it will not exercise any of the remedies provided in the case of any Event of Default under and as defined in the Lease unless it shall notify the Vendor in writing of its intended exercise thereof, and hereby further agrees to furnish to the Vendor copies of all summonses, writs, processes and other documents served by it upon the Lessee or served by the Lessee upon it in connection therewith.

So long as no event of default shall have occurred and be continuing hereunder, the Company shall be entitled to the possession and use of the Units of Equipment and the Units of Equipment may be used by the Lessee or any affiliated or subsidiary corporation upon its or their lines of railroad or upon lines of railroad over which the Lessee or other such corporation has trackage or other operating rights or over which railroad equipment of the Lessee or any other such corporation is regularly operated pursuant to contract, and the Units of Equipment may be used upon other railroads in the usual interchange of traffic (if such interchange is customary at the time), but only upon and subject to all the terms and conditions of this Agreement. The Units of Equipment may be subleased by the Lessee to such subsidiary or affiliated corporations of the Lessee as are at the time such sublease is executed and in effect domestic railroad corporations incorporated under the laws of Canada or any province thereof or any state of the United States of America or the District of Columbia; *provided, however*, that the rights of such sublessee are made expressly subordinate to the rights and remedies of the Vendor under this Agreement. The Company may also lease the Units of Equipment to any other railroad company with the prior written consent of the Vendor, provided that the rights of such lessee are made expressly subordinate to the rights and remedies of the Vendor under this Agreement. Nothing in this Article 8 shall be deemed to restrict the right of the Lessee to assign or transfer its leasehold interest under the Lease in the Units or possession of the Units to any corporation incorporated under the laws of Canada (which shall have duly assumed the obligations of the Lessee hereunder) into or with which the Lessee shall have become amalgamated, merged or consolidated or which shall have acquired the property of the Lessee as an entirety or substantially as an entirety.

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ARTICLE 9. *Prohibition Against Liens.* The Company will pay or satisfy and discharge any and all sums claimed by any party by, through or under the Company or its successors or assigns which, if unpaid, might become a lien, charge, security interest or encumbrance upon any Units of Equipment equal or superior to the title of the Vendor thereto, but shall not be required to pay or discharge any such claim so long as the validity thereof shall be contested in good faith and by appropriate legal proceedings in any reasonable manner and the nonpayment thereof does not, in the opinion of the Vendor, adversely affect the property or rights of the Vendor hereunder.

This covenant will not be deemed breached by reason of liens for taxes, assessments or governmental charges or levies, in each case not due and delinquent, or undetermined or inchoate materialmen's, mechanics', workmen's, repairmen's or other like liens arising in the ordinary course of business and, in each case, not delinquent.

ARTICLE 10. *Indemnities; Warranty of the Manufacturer.* The Company agrees to indemnify, protect and hold harmless the Vendor from and against all losses, damages, injuries, liabilities, claims and demands whatsoever, regardless of the cause thereof, and expenses in connection therewith, including counsel fees, arising out of retention by the Vendor of title to the Units of Equipment, or out of the use and operation thereof during the period when title thereto remains in the Vendor. This covenant of indemnity shall continue in full force and effect notwithstanding the full payment of the Conditional Sale Indebtedness, and the conveyance of the Units of Equipment as provided in Article 4 hereof, or the termination of this Agreement in any manner whatsoever.

The Company will bear the risk of, and shall not be released from its obligations hereunder in the event of, any damage to or the destruction or loss of any Unit or all the Units of Equipment.

ARTICLE 11. *Assignments.* The Company will not assign or transfer its rights under this Agreement or, except as provided in Article 8 hereof, transfer the right to possession of any Unit unless such assignment or transfer is made expressly subject in all respects to the rights and remedies of the Vendor hereunder.

All or any of the rights, benefits and advantages of the Vendor under this Agreement, including the right to receive the payments herein provided to be made by the Company, may be assigned by the Vendor and reassigned by its assignee at any time or from time to time. No such assignment shall relieve the Company of its obligations to the Manufacturer contained or referred to in Articles 1, 2, 3 and 10 hereof or any other obligation which, according to its terms and context, is intended to survive an assignment.

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Upon any such assignment either the assignor or the assignee shall give written notice to the Company, together with a counterpart or copy of such assignment, stating the identity and post office address of the assignee, and such assignee shall, by virtue of such assignment, acquire all the Vendor's right, title and interest in and to the Units of Equipment, or in and to a portion thereof, as the case may be, subject only to such reservations as may be contained in such assignment. From and after the receipt by the Company of the notification of any such assignment, all payments thereafter to be made by the Company hereunder shall, to the extent so assigned, be made to the assignee at the address of the assignee specified in the aforesaid notice.

ARTICLE 12. *Defaults.* In the event that any one or more of the following events of default shall occur and be continuing, namely:

(a) The Company shall fail to pay in full any sum payable by the Company when payment thereof shall be due hereunder and such default shall continue for 10 days; or

(b) The Company shall, for more than 30 days after the Vendor shall have demanded in writing performance thereof, fail or refuse to comply with any covenant, agreement, term or provision of this Agreement on its part to be kept and performed or to make provision satisfactory to the Vendor for such compliance; or

(c) Any proceedings shall be commenced by or against the Company for any relief under any bankruptcy or insolvency laws, or laws relating to the relief of debtors, readjustments of indebtedness, reorganizations, arrangements, compositions or extensions (other than a law which does not permit any readjustment of the indebtedness payable hereunder) and such proceedings shall not have been dismissed, nullified, stayed or otherwise rendered ineffective within 30 days of their being commenced (but then only so long as such stay shall continue in force or such ineffectiveness shall continue), all the obligations of the Company under this Agreement which shall not have been duly assumed in writing, pursuant to a court order or decree, by a trustee or trustees or receiver or receivers appointed for the Company or for its property in connection with any such proceedings in such manner that such obligations shall have the same status as obligations incurred by such a trustee or trustees or receiver or receivers, within 30 days after such appointment, if any, or 60 days after such proceedings shall have been commenced, whichever shall be earlier; or

(d) The Company shall make or suffer any unauthorized assignment or transfer of this Agreement or any interest herein; or

(e) An Event of Default shall occur under the Lease;

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then at any time after the occurrence of such an event of default the Vendor may, upon written notice to the Company and upon compliance with any legal requirements then in force and applicable to such action by the Vendor, (i) subject to the rights of the Lessee referred to in Article 8 hereof, cause the Lease immediately upon such notice to terminate (and the Company acknowledges the right of the Vendor to terminate the Lease) and/or (ii) declare (hereinafter called a Declaration of Default) the entire unpaid Conditional Sale Indebtedness, together with the interest thereon then accrued and unpaid, immediately due and payable, without further demand, and thereafter the aggregate of the unpaid balance of such Conditional Sale Indebtedness and such interest shall bear interest from the date of such declaration at the rate of 8.10% per annum and the Vendor shall thereupon be entitled to recover judgment for the entire unpaid balance of the Conditional Sale Indebtedness so payable, with interest as aforesaid, and, subject to the provisions of the last paragraph of Article 3 hereof, to collect such judgment out of the property of the Company wherever situated.

The Vendor may waive any such event of default and its consequences and rescind any Declaration of Default or notice of termination of the Lease by notice to the Company in writing to that effect, and thereupon the respective rights of the parties shall be as they would have been if no such default had existed and no Declaration of Default or notice of termination of the Lease had been made. Notwithstanding the provisions of this paragraph, it is expressly understood and agreed by the Company that time is of the essence of this Agreement and that no such waiver or rescission shall extend to or affect any other or subsequent default or impair any rights or remedies consequent thereon.

ARTICLE 13. Remedies. At any time during a Declaration of Default, the Vendor may, upon such further notice, if any, as may be required for compliance with any mandatory requirements of law then in force and applicable to the action to be taken by the Vendor (subject to the rights of the Lessee under the Lease referred to in Article 8 hereof) take or cause to be taken by its agent or agents immediate possession of the Units of Equipment, or any thereof, without liability to return to the Company any sums theretofore paid and free from all claims whatsoever, except as hereinafter in this Article 13 expressly provided, and may remove the same from possession and use of the Company or anyone having such possession and use and for such purpose may enter upon the premises of the Company or the Lessee or wherever the Units of Equipment may be located and may use and employ in connection with such removal any supplies, services and aids and any available trackage and other facilities or means of the Company or the Lessee, with or without process of law.

In case the Vendor shall demand possession of the Units of Equipment in pursuance of this Agreement and shall reasonably designate a point or points upon the lines of the Lessee for the delivery of the Units of Equipment to the Vendor, the Company shall, at its own expense, forthwith and in the usual

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manner, cause the Units of Equipment to be moved to such point or points on the lines of the Lessee as shall reasonably be designated by the Vendor and shall there deliver the Units of Equipment or cause it to be delivered to the Vendor. At the option of the Vendor, the Vendor may keep the Units of Equipment on any of the lines of railroad or premises of the Lessee until the earlier of (x) the date the Vendor shall have leased, sold or otherwise disposed of the same or (y) the 180th day from the date the Units of Equipment shall have been placed for storage on such lines or premises. For such purpose the Company agrees to cause to be furnished, without charge for rent or storage, the necessary facilities at any reasonably convenient point or points selected by the Vendor. This agreement to deliver the Units of Equipment as hereinbefore provided is of the essence of this agreement between the parties, and, upon application to any court having jurisdiction in the premises, the Vendor shall be entitled to a decree against the Company requiring specific performance hereof. The Company hereby expressly waives any and all claims against the Vendor and its agent or agents for damages of whatever nature in connection with any retaking of any Units of Equipment in any reasonable manner.

At any time during the continuance of a Declaration of Default, the Vendor (after retaking possession of the Units of Equipment as hereinbefore in this Article 13 provided) may, at its election and upon such notice as is hereinafter set forth, retain the Units of Equipment in satisfaction of the entire indebtedness in respect of the Conditional Sale Indebtedness and make such disposition thereof as the Vendor shall deem fit. Written notice of the Vendor's election to retain the Units of Equipment shall be given to the Company by telegram or registered mail and to any other persons to whom the law may require notice within 30 days after a Declaration of Default. In the event that the Vendor should elect to retain the Units of Equipment, and no objection is made thereto within the 30-day period described in the second proviso below, all rights of the Company in the Units of Equipment will thereupon terminate and all payments made by the Company may be retained by the Vendor as compensation for the use of the Units of Equipment; *provided, however*, that if the Company, before the expiration of the 30-day period described in the proviso below, should pay or cause to be paid to the Vendor the total unpaid balance of the Conditional Sale Indebtedness, together with interest thereon accrued and unpaid and all other payments due under this Agreement, then in such event absolute right to the possession of, title to and property in the Units of Equipment shall pass to and vest in the Company; and *provided further, however*, that if the Company or any other person notified under the terms of this paragraph shall object in writing to the Vendor within 30 days from the receipt of notice of the Vendor's election to retain the Units of Equipment, then the Vendor may not so retain the Units of Equipment, but shall sell, lease or otherwise dispose of it or continue to hold it pending sale, lease or other disposition as hereinafter provided or as may otherwise be permitted by law.

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The Vendor, with or without the retaking of possession thereof, at its election and upon reasonable notice to the Company and to any other persons to whom the law may require notice of the time and place, may sell the Units of Equipment, or any part thereof, free from any and all claims of the Company, or of any other party (including the Lessee) claiming by, through or under the Company, at law or in equity, at public or private sale and with or without advertisement as the Vendor may determine; *provided, however*, that if prior to such sale or prior to the making of a contract for such sale, the Company should tender full payment of the entire indebtedness in respect of the total unpaid balance of the Conditional Sale Indebtedness, together with interest thereon accrued and unpaid and all other payments due under this Agreement as well as expenses of the Vendor in retaking, holding and preparing the Units of Equipment for disposition and arrangement for the sale and the Vendor's reasonable solicitors' fees, then in such event absolute right to the possession of, title to and property in the Units of Equipment shall pass to and vest in the Company. The proceeds of such sale, or of any lease or other disposition of the Units of Equipment as provided here under, less the solicitors' fees and any other expenses incurred by the Vendor in taking possession of, removing, storing and so disposing of the Units of Equipment, shall be credited against the amount due to the Vendor under the provisions of this Agreement.

Any sale hereunder may be held or conducted at such place or places and at such time or times as the Vendor may specify, in one lot and as an entirety, or in separate lots and without the necessity of gathering at the place of sale the property to be sold, and in general in such manner as the Vendor may determine; *provided, however*, that the Company shall be given written notice of such sale as provided hereinabove. The Vendor may bid for and become the purchaser of the Units of Equipment, or any part thereof, so offered for sale without accountability to the Company (except to the extent of surplus money received as hereinafter provided in this Article 13), and in payment of the Unit Cost therefor the Vendor shall be entitled to have credited on account thereof all sums due to the Vendor from the Company hereunder.

Each and every power and remedy hereby specifically given to the Vendor shall be in addition to every other power and remedy hereby specifically given or now or hereafter existing at law or in equity, and each and every power and remedy may be exercised from time to time and simultaneously and as often and in such order as may be deemed expedient by the Vendor. All such powers and remedies shall be cumulative, and the exercise of one shall not be deemed a waiver of the right to exercise any other or others. No delay, except where time limits are expressly herein provided, or omission of the Vendor in the exercise of any such power or remedy and no renewal or extension of any payments due hereunder shall impair any such power or remedy or shall be construed to be a waiver of any default or an acquiescence therein.

All sums of money realized by the Vendor under the remedies herein provided shall be applied, *first* to the payment of the expenses and liabilities of the

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Vendor herein undertaken to be paid, *second* to the payment of interest on the unpaid Conditional Sale Indebtedness accrued and unpaid and *third* to the payment of the unpaid Conditional Sale Indebtedness. If, after applying as aforesaid all sums of money realized by the Vendor, there shall remain any amount due to it under the provisions of this Agreement, the Company, subject to the provisions of the last paragraph of Article 3 hereof, shall pay the amount of such deficiency to the Vendor upon demand, and, if the Company shall fail to pay the full deficiency, the Vendor may bring suit therefor and shall be entitled to recover a judgment therefor against the Company. If, after applying as aforesaid all sums realized by the Vendor, there shall remain a surplus in the possession of the Vendor, such surplus shall be paid to the Company.

The Company, subject to the provisions of the last paragraph of Article 3 hereof, will pay all reasonable expenses, including solicitors' fees, incurred by the Vendor in enforcing its remedies under the terms of this Agreement. In the event that the Vendor shall bring any suit to enforce any of its rights hereunder and shall be entitled to judgment, then in such suit the Vendor may recover reasonable expenses, including solicitors' fees, and the amount thereof shall be included in such judgment.

The foregoing provisions of this Article 13 are subject in all respect to all mandatory requirements of law at the time in force and applicable thereto.

ARTICLE 14. *Applicable Laws.* Any provision of this Agreement prohibited by any applicable law of any jurisdiction shall as to such jurisdiction be ineffective, without modifying the remaining provisions of this Agreement. Where, however, the conflicting provisions of any applicable law may be waived, they are hereby waived by the Company to the full extent permitted by law, to the end that this Agreement shall be deemed to be a conditional sale and enforceable as such.

Except as otherwise provided in this Agreement, the Company, to the full extent permitted by law, hereby waives all statutory or other legal requirements for any notice of any kind, notice of intention to take possession of or to sell the Units of Equipment, or any part thereof, and any other requirements as to the time, place and terms of sale thereof, any other requirements with respect to the enforcement of the Vendor's rights hereunder and any and all rights of redemption.

ARTICLE 15. *Extension not a Waiver.* Any extension of time for payment hereunder or other indulgence duly granted to the Company shall not otherwise alter or affect the Vendor's rights or the obligations of the Company hereunder. The Vendor's acceptance of any payment after it shall have become due hereunder shall not be deemed to alter or affect the Company's obligations or the Vendor's rights hereunder with respect to any subsequent payments or defaults therein.

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ARTICLE 16. *Recording.* Prior to the delivery and acceptance of any Unit of Equipment, the Company may cause this Agreement, and any supplements hereto (i) to be deposited in the office of the Registrar General of Canada (and will cause the required notice of such deposit forthwith thereafter to be published in *The Canada Gazette*) in accordance with Section 86 of the Railway Act of Canada R.S.C. 1970, c. R-2, and (ii) to be filed, registered, recorded or deposited and refiled, reregistered, recorded or redeposited, with the Interstate Commerce Commission in accordance with Section 20c of the Interstate Commerce Act of the United States of America. The Company will, from time to time, do and perform any other act and will execute, acknowledge, deliver and file, register, deposit and record (and will refile, reregister, rererecord or redeposit whenever required) any and all further instruments required by law or reasonably requested by the Vendor for the purpose of proper protection in Canada and the United States to the satisfaction of the Vendor and its counsel, of its title to the Units of Equipment and its rights under this Agreement or for the purpose of carrying out the intention of this Agreement. The Company will promptly furnish to the Vendor evidences of such depositing, filing, registering or recording and of such publication of notice of such deposit and an opinion or opinions of counsel with respect thereto, each satisfactory to the Vendor and its counsel.

ARTICLE 17. *Payment of Expenses.* The Company will pay all reasonable costs and expenses incident to the preparation and execution of this Agreement and its recording under Article 16 hereof.

ARTICLE 18. *Notice.* Any notice hereunder to any party designated below shall be deemed to be properly served if delivered or mailed to it at its chief place of business at the following specified addresses:

(a) the Company: Two St. Clair Avenue West, Toronto, Ontario, attention of The Secretary;

(b) the Vendor: Canada Permanent Trust Company, 320 Bay Street, Toronto, Ontario, attention of Corporate Trust Department;

or at such other address as may have been furnished in writing by such party to the other party to this Agreement.

ARTICLE 19. *Satisfaction of Undertakings.* The obligations of the Company under Articles 6, 7, 9, 10 and the second paragraph of Article 13 hereunder shall be deemed in all respects satisfied by the Lessee's undertakings contained in Sections 5, 8 and 10 of the Lease. The Company shall not have any responsibility for the Lessee's failure to perform such obligations, but if the same shall not be performed they may constitute the basis for an event of default hereunder as provided in Article 12 hereof.

ARTICLE 20. *Effect and Modification of Agreement.* This Agreement and the Annexes hereto exclusively and completely state the rights and agreements of the Vendor and the Company with respect to the Units of Equipment and supersede all other agreements, oral or written, with respect to the Units of

CONDITIONAL SALE AGREEMENT

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Equipment. No variation of this Agreement and no waiver of any of its provisions or conditions shall be valid unless in writing and duly executed on behalf of the Vendor and the Company.

ARTICLE 21. *Law Governing.* The terms of this Agreement and all rights and obligations hereunder shall be governed by the laws of Ontario; *provided, however,* that the parties shall be entitled to all rights conferred by the applicable recording laws of Canada and of the Provinces and Territories thereof and by Section 20c of the Interstate Commerce Act of the United States of America, and such additional rights arising out of the filing, recording, registering or depositing hereof and of any assignment hereof and out of the marking on the Units of Equipment as shall be conferred by the laws of the several jurisdictions in which the Units of Equipment may be located and in which this Agreement or any assignment hereof shall be filed, recorded, registered or deposited.

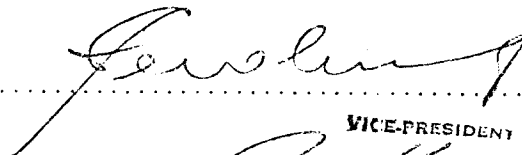
ARTICLE 22. *Execution.* This Agreement may be executed in any number of counterparts, each of which when so executed shall be deemed to be an original, and such counterparts together shall constitute but one and the same contract, which shall be sufficiently evidenced by any such original counterpart. Although this Agreement is dated as of February 28, 1972, for convenience, the actual date or dates of execution hereof by the parties hereto is or are, respectively, the date or dates stated in the acknowledgments hereto annexed.

IN WITNESS WHEREOF, the parties hereto have caused this instrument to be executed in their respective corporate names by their officers or officials thereunto duly authorized, and their respective corporate seals to be hereunto affixed and duly attested, all as of the date first above written.

CANADA PERMANENT TRUST COMPANY

[CORPORATE SEAL]

by.....



VICE-PRESIDENT

.....
ASSOCIATE SECRETARY

CANADIAN ACCEPTANCE CORPORATION, LIMITED

[CORPORATE SEAL]

by.....

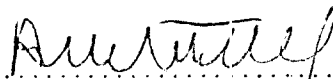

Vice-President
.....
Assistant Secretary

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PROVINCE OF ONTARIO }
CITY OF TORONTO } ss.:

On this 7th day of MARCH, 1972, before me personally appeared James D. Johnstone, to be personally known, who, being by me duly sworn, says that he is a Vice-President of CANADIAN ACCEPTANCE CORPORATION LIMITED, that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.



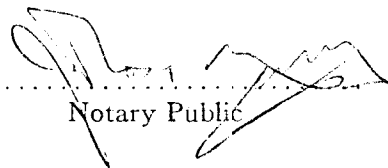
Notary Public

My Commission is for life.

[NOTARIAL SEAL]

PROVINCE OF ONTARIO }
CITY OF TORONTO } ss.:

On this 9th day of MARCH, 1972, before me personally appeared **RONALD A. PARKER** to be personally known, who, being by me duly sworn, says that he is an Authorized Officer of CANADA PERMANENT TRUST COMPANY, that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.



Notary Public

My Commission is for life.

[NOTARIAL SEAL]

CONDITIONAL SALE AGREEMENT

SCHEDULE 1

Type and Specifications	Manufacturer	Manufacturer's Plant	Quantity	Road Numbers (inclusive)	Unit Base Price	Total Base Price	Date and Place of Delivery
4 Container Flat Cars; CN Specification F-50-9 dated June 1970, General Arrangement Drawing CN 9H-37285, Specification SS-1966 and Addendum No. 1 to Specification F-50-9 dated 24 March, 1971	Hawker Siddeley Canada Ltd.	Trenton, Nova Scotia	100	CN639527 to 639626	\$18,680.04	\$1,868,004.00	Mar.-Apr. 1972 F.O.B. Canadian National Railway Company tracks
100 Ton Drop End Gondola Cars; CN Specification F-60-9 dated May 1970, General Arrangement Drawing CN 8H-37488-A and Specification SS 1966	Hawker Siddeley Canada Ltd.	Trenton, Nova Scotia	300	CN157000 to 157299	\$20,467.88	\$6,140,364.00	Mar.-May 1972 F.O.B. Canadian National Railway Company Tracks
70 Ton Bi-level Flat Cars; CN Specification F-150-1 dated May 1971, General Arrangement Drawing CN 9H-37477 and Specification SS 1966	Hawker Siddeley Canada Ltd.	Trenton, Nova Scotia	75	CN710500 to 710574	\$28,206.69 \$28,142.65	\$2,115,501.75 \$2,148,178.75	Apr.-May 1972 F.O.B. Canadian National Railway Company tracks
70 Ton Bi-level Flat Cars; CN Specification F-150-1 dated May 1971, General Arrangement Drawing CN 9H-37477 and Specification SS 1966	Hawker Siddeley Canada Ltd.	Trenton, Nova Scotia	75	CN710575 to 710649	\$28,206.69 \$28,142.65	\$2,115,501.75 \$2,148,178.75	May-June 1972 F.O.B. Canadian National Railway Company tracks
Woodchip Cars; CN Specification F-160-3 dated September 1971, General Arrangement Drawing 9H-37570-A and Specifications SS 1966	National Steel Car Corporation, Limited	Hamilton, Ontario	125	CN880600 to 880724	\$16,167.68	\$2,020,960.00	Mar.-Apr. 1972 F.O.B. Canadian National Railway Company tracks